

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
Central Division

STEVEN M. PRYE, et al.,	)	
	)	
Plaintiffs	)	
	)	
v.	)	Case No. 2:04-cv-4248-ODS
	)	
MATT BLUNT, et al.,	)	
	)	
Defendants	)	
	)	

---

**UNITED STATES' NOTICE OF INTERVENTION PURSUANT TO 28 U.S.C. 2403(a)**

The United States respectfully exercises its right to intervene in this appeal pursuant to 28 U.S.C. 2403(a) to defend the constitutionality of the federal statute removing States' Eleventh Amendment immunity for private claims under Title II of the Americans with Disabilities Act of 1990, as applied to cases implicating voting.

In support of intervention, the United States provides the following information:

1. Section 2403(a) of Title 28 provides that “[i]n any action, suit or proceeding in a court of the United States to which the United States \* \* \* is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court \* \* \* *shall permit the United States to intervene \* \* \* for argument on the question of constitutionality.*” (emphasis added). The United States has thus intervened in numerous cases to defend statutory provisions providing for the removal or the waiver of States' Eleventh Amendment immunity. See, e.g., *Bill M. v. Nebraska Dep't of Health & Human Servs.*, 408 F.3d 1096 (8th Cir. 2005), vacated and remanded, 2006 WL 985631 (S. Ct. Apr 17, 2006); *Jim C. v. Arkansas Dep't of*

*Educ.*, 235 F.3d 1079 (8th Cir. 2000) (en banc); *Doe v. Nebraska*, 345 F.3d 593 (8th Cir. 2003);

*Okruhlik v. University of Ark.*, 255 F.3d 615 (8th Cir. 2001)

2. On April 14, 2006, this Court granted the United States' request to file a brief defending the constitutionality of Title II of the ADA within 45 days of May 1, 2006 – by June 15, 2006.

Wherefore, the United States respectfully intervenes in this appeal to defend the constitutionality of the provision abrogating Eleventh Amendment immunity for private claims under Title II of the Americans with Disabilities Act of 1990.

Respectfully submitted,

WAN J. KIM  
Assistant Attorney General

/S/ Sarah E. Harrington  
DAVID K. FLYNN  
SARAH E. HARRINGTON  
Attorneys  
Department of Justice  
Civil Rights Division, Appellate Section  
Ben Franklin Station  
P.O. Box 14403  
Washington, D.C. 2044-4403  
(202) 305-7999

Designated Local Counsel:

Charles M. Thomas  
Assistant United States Attorney  
Office of the United States Attorney  
United States Courthouse  
400 E. 9th Street, Room 5510  
Kansas City, Missouri 64106  
(816) 426-4299

## CERTIFICATE OF SERVICE

I certify that on this 27th day of April, 2006, I electronically filed the foregoing UNITED STATES' NOTICE OF INTERVENTION PURSUANT TO 28 U.S.C. 2403(a) with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following, or, if notification was not so sent, that the document filed was mailed by United States Mail, postage prepaid:

Alison Barkoff, Esq.  
Ira Burnim, Esq.  
Jennifer Mathis, Esq.  
Bazelon Center for Mental Health Law  
1101 15th Street NW, Suite 1212  
Washington, DC 20005

Anthony E. Rothert, Esq.  
James G. Felakos, Esq.  
ACLU of Eastern Missouri  
4557 Laclede Avenue  
St. Louis, MO 63108

David E. Hale, Esq.  
Michael H. Finkelstein, Esq.  
Missouri Protection & Advocacy Services  
925 South Country Club Drive  
Jefferson City, MO 65109

James Michael Kirkland, Esq.  
Sonnenschein Nath & Rosenthal  
4520 Main St., Ste. 1100  
Kansas City, MO 64111

Neil Bradley, Esq.  
American Civil Liberties Union  
2725 Harris Tower  
233 Peachtree Street NE  
Atlanta, GA 30303

Jeffrey M. Plesko, Esq.  
Guardianship & Advocacy Commission  
7 Cottage Drive  
Anna, IL 62906

John H. Wank, Esq.  
Guardianship & Advocacy Commission  
160 N. LaSalle Street, Ste. S-500  
Chicago, IL 60601

Michael Pritchett, Esq.  
Missouri Attorney General's Office  
207 West High Street  
Jefferson City, MO 65102

Rufus J. Tate, Jr., Esq.  
Tate Law Firm, LLC  
7751 Carondelet Avenue, Ste. 803  
St. Louis, MO 63105-3369

David B. Raymond  
Blackwell Sanders Peper Martin-Main St  
4801 Main Street, Ste. 1000  
Kansas City, MO 64112

F. Russell Millin  
1100 Main Street, Ste. 2800  
Kansas City, MO 64105

---

*/S/ Sarah E. Harrington*  
SARAH E. HARRINGTON  
Attorney